IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5992 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANKLESHWAR TALUKA NON TRIBAL DIVISION CO-OP SOCIETY
FOR - Petitioner(s)
Versus
STATE OF GUJARAT & 8 - Respondent(s)

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Appearance :
MR GM JOSHI for Petitioner(s) : 1,
S MANISHA L SHAH AGP for Respondent(s) : 1 - 2, 4,
RULE SERVED for Respondent(s) : 3,
MS SEJAL K MANDAVIA for Respondent(s) : 5,
MR BN PATEL for Respondent(s) : 6 - 9.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/10/2006

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged an order dated 6th June, 2000 passed by the State Government.

2. The petitioner is a taluka level Cooperative Society involved in buying, selling and converting all fruits and vegetables in Ankleshwar taluka. It may be noted that the petitioner society is operating in non-tribal division of Ankleshwar taluka.

3. Respondent nos. 6 to 9 herein are village level Cooperative Society involved in buying, selling and converting all fruits and vegetables. Respondent no.6 is a Cooperative Society in non-tribal division.

4. Though the petitioner has described respondent nos.7 to 9 also as Cooperative Societies operating in non-tribal division, these respondents had filed an affidavit in reply contending that they are falling within the tribal zone. To this averment, no denial

has been made by the petitioner. It would, therefore, appear that though respondent no.6 is operating in non-tribal division, respondent nos. 7 to 9 operate in tribal division.

4.1. Respondent nos. 6 to 9 applied for and were granted registration by the competent authority under the Gujarat Cooperative Societies Act (hereinafter referred to as the said Act). The petitioner challenged said registration by filing appeal before the Additional Registrar (appeals). Appeal of the petitioner being Appeal No.61/00 was allowed by an order dated 15/2/2000. Aggrieved societies, therefore, approached the State Government by filing a revision application which came to be allowed by the State Government by the impugned order dated 6/6/2000.

5. Petitioner has challenged the order passed by the State Government on various grounds. Primarily it is contended that these societies were constituted only with the purpose of increasing membership of a Cooperative Bank whose elections were eminent. It is

contended that such registration was granted without following proper procedure and in fact the authorities allowed the registration even without examining necessary details about such society. It is also contended that with respect to respondent no.7 and 9 societies large number of members are from the same family. It is contended that the State Government erroneously turned down objection in this regard observing that such family members are residing separately.

6. Private respondents have filed detailed affidavit in reply and opposed the petition. They support the Government action contending that the same calls for no interference as the Government has passed impugned order on the basis of the available material on record. It is contended that the petitioner is in no way aggrieved by the registration granted to this society, particularly so when the same refers to registration of society in tribal division.

7. Having heard learned advocates appearing for the

parties and having perused the material on record, it can be seen straight away that the petitioner is a taluka level cooperative society operating in non-tribal division at Ankleshwar taluka. Respondent nos. 7 to 9 are village level cooperative societies engaged in the same kind of activities as that of the petitioner, but in tribal division of the taluka. Thus, there is no conflict of fields of operations of these societies with that of the petitioner society. Their areas being clearly de-marketed and separate, the petitioner can have no grievance about registration of these societies. The challenge of the petitioner in this regard, therefore, must fall on the ground of lack of locus standi. Without expressing any opinion on the conclusions reached by the Government regarding these societies, therefore, challenge of the petitioner is turned down only on the ground that the petitioner has no right to challenge registration of these societies.

8. With respect to respondent no.6-society however, there is vital difference. Petitioner as well as respondent no.6-society operate in non-tribal

division. They both operate in the same activities. Though the petitioner is a taluka level cooperative society, registration of village level society in the same taluka operating in the same set of activities would give rise to the right in favour of the petitioner to challenge such registration. To that extent, the challenge of the petitioner cannot be turned down as lacking in locus standi.

9. Registration granted to respondent no.6 was quashed by the Additional Registrar while coming to a specific conclusion that such registration was granted without properly examining all aspects of the matter. It was specifically observed that proposal for registration was presented by Taluka Development Officer vide letter dated 18/2/2000. This proposal was received by the Cooperation Department of the District Panchayat on 22nd February, 2000, whereas this proposal was considered in a meeting held on 19th February, 2000. At that time, the proposal was not available in the Cooperation Department of the District Panchayat. Proposal was verified and sent to the Assistant District Registrar on 25th February,

2000. Upon condition of fulfillment of all requirements registration is granted. He, therefore, concluded that though the proposal was verified not before 25th February, 2000 decision to grant registration was taken in a meeting dated 19/2/2000.

10. These conclusions of the Additional Registrar were not properly taken into account by the Government by passing impugned order dated 6th June, 2000. In granting registration to the said society there were apparent errors and a degree of haste was also shown. When the proposal is not fully verified and opinion of all departments not yet obtained till 25th February, 2000, there was absolutely no occasion of granting registration in a meeting held on 19th February, 2000. In fact the order passed by the Additional Registrar seems to be suggesting that though decision is said to have been taken in a meeting dated 19/2/2000, proposal for granting registration was received by the Panchayat on 22nd February, 2000. These conclusions certainly raised some awkward questions. The Government ought to have examined these aspects at greater detail before overruling the decision of the Additional Registrar.

Considering these aspects of the matter, order passed by respondent no.6 atleast calls for interference.

11. In the result, petition is allowed to the limited extent by setting aside the impugned order dated 6th June, 2000 qua respondent no.6. Order passed by the Additional Registrar dated 15/2/2000 is restored to that extent.

12. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent. No costs.

13. This however would not come in way of respondent no.6 in making fresh application for registration after fulfilling all requirements and the authorities in consider such an application in accordance with law.

(Akil Kureshi, J.)

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